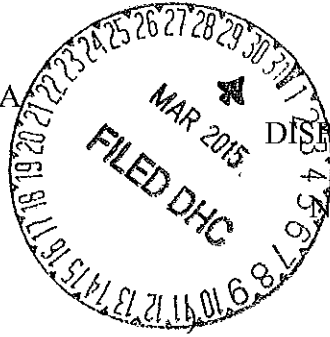


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
15 DHC 7

THE NORTH CAROLINA STATE BAR,

Plaintiff,

v.

JERRY R. TILLET,

Defendant.

ANSWER

NOW COMES, Defendant, Jerry R. Tillett ("Tillett"), by and through counsel, and answering the complaint of the Plaintiff, The North Carolina State Bar ("State Bar"), alleges, avers and says:

SUMMARY OF ANSWER

Tillett has already been disciplined by the Judicial Standards Commission ("JSC") for the same acts which give rise to the Complaint made by the State Bar against Tillett as a lawyer. N.C. Gen. Stat. § 7A-374.1 provides that "the procedure for discipline of any judge or justice of the General Court of Justice shall be in accordance with this Article."

"The purpose of professional discipline for misconduct is not punishment, but to protect the public, the courts and the legal profession." N.C.R.P.C. Rule 8.4 Comment [3]. The discipline imposed by the JSC—a public reprimand—has already served "to protect the public, the courts and the legal profession."

The conduct for which Tillett was disciplined by the JSC does not reflect adversely on Tillett's "honesty, trustworthiness, or fitness as a LAWYER." Significantly, the alleged conduct described in the Complaint was only sanctionable because Tillett is a superior court judge.

The JSC is authorized by statute to impose a “public reprimand” for MINOR misconduct only. A much more severe form of discipline would have been imposed by the Supreme Court had Tillett’s conduct been found by the JSC to be other than minor.

Tillett accepted the public reprimand to end the adverse publicity. He withdrew appeals and accepted without protest the unilateral reassignments and limitation of his administrative duties.

Tillett did not request the April 15, 2010 meeting with KDH officials. The meeting was orchestrated by the KDH Town Attorney in order to address concerns about the flagrant, widespread professional misconduct of officers in the KDHPD. KDH police officers had, *inter alia*, altered court documents, testified falsely under oath, been declared by order of the Chief District Court Judge and Senior Resident Superior Court Judge to be untrustworthy witnesses and banned from their courts. KDHPD officers had also been the subject of numerous complaints from victims, attorneys and concerned citizens.

Tillett made no threats and no statement that the law was what he said it was. The discussions focused on specific instances of malfeasance of KDH police officers. Chief Britt angrily proclaimed that he was not intimidated by Tillett and refused to continue to discuss the specific conduct of his officers. Mayor Sturza concluded the meeting by requesting that he be given the opportunity to correct the problems with the KDHPD.

Tillett did not discuss the detention of his adult son. Assistant Chief Harris raised the subject and asked Tillett if he wanted to view a video of the KDH police encounter with his son. Tillett declined the offer as unnecessary in that no charges had been made against his son. Tillett

had already been assured by the KDH Town Attorney who had viewed the video that Tillett's son had not misbehaved or been discourteous to the KDH police officer who had accosted him.

More than a year after the KDH police encounter with Tillett's son, Tillett received complaints from KDH police officers against Chief Britt. Those complaints originated with the complainants. Tillett played no role whatsoever in the initiation, preparation, or filing of any complaints.

Tillett did not repeatedly pressure the DA to file a petition to remove Chief Britt from office, did not attempt to direct the DA's investigation, did not instruct the DA to show the DA's draft petition to Chief Britt's attorney, or demand that Chief Britt be told to resign. The DA procrastinated and actually failed to do anything with his draft petition except mislead KDH Town officials and Tillett.

The order entered by Tillett on September 19, 2011 required the preservation of COPIES of certain Town personnel files. The original files were retained by the Town. The order was entered with the consent of the Town and the DA. The KDH Town Attorney participated in drafting the order. Tillett did not direct that no one receive a copy of the order and did not require that the order be sealed.

The Town Clerk expressed concern that she did not have all the personnel files so as to comply with the order. Her concern was that Chief Britt had a personnel file or files in his exclusive possession.

The telephone conference with the DA on October 26, 2011 resulted from a request from the KDH Town Attorney to assist him in communicating with the DA. The KDH Town Attorney participated in the call with Tillett. The DA did not tell Tillett that the Attorney General's Office had said that no legal basis existed for the filing of the petition to remove Chief Britt. Tillett

suggested to the DA that he make a decision to file or not to file the petition that the DA himself had prepared.

Tillett did not say that the law was what he or Judge Fitch said that it was.

As a result of an inquiry by the DA in the October 26, 2011 telephone conference about the incident involving Tillett's son and a KDH police officer, Tillett recused himself from further involvement with the complaints against Chief Britt and the preservation of COPIES of the KDH personnel files which were the subject of Tillett's September 19, 2011 order.

The order entered by Judge Fitch on January 19, 2012 was his own order. That order was the only order appealed to the Court of Appeals. Judge Fitch's order was the only order vacated by the Court of Appeals.

The January 5, 2012 meeting with DA Parrish and ADA Lamb was requested and arranged by ADA Lamb. The purpose of the meeting was to discuss concerns and specific incidents of ineffective job performance by the DA's Office.

Tillett did not threaten the DA or ADA Lamb.

The presence of the sheriff was requested by Tillett's assistant since she was not going to be present during the meeting.

The meeting with ADA Lamb and the DA's investigator on January 11, 2012 was an accommodation to ADA Lamb. The purpose of the meeting requested by ADA Lamb was to obtain whatever information Tillett had relating to the misconduct of Chief Britt.

ADA Lamb did not tell Tillett that she had requested or received an opinion from someone at the UNC School of Government that no legal basis existed to support a petition for the removal of Chief Britt.

The only communication to Tillett from ADA Lamb informing Tillett that no petition for removal of Chief Britt would be filed was her letter dated August 15, 2012.

The letter sent to Assistant KDH Town Manager Murphy was prompted by complaints received by Tillett against Mr. Murphy.

MOTION TO DISMISS

Tillett's motion to dismiss in lieu of answer filed herein on March 17, 2015 ("the Motion"), is incorporated by reference.

AFFIRMATIVE DEFENSES

(Failure to State a Claim)

The Complaint fails to allege any misconduct by Tillett as a lawyer.

The Complaint fails to allege any conduct by Tillett as a lawyer that is sanctionable.

Engaging in private meetings in chambers with public officials, law enforcement officers and attorneys is not sanctionable conduct. Nor is writing letters about complaints received or drafting orders. The same is true for orders issued to preserve copies of documentary evidence.

(*Res Judicata*)

The Order of Public Reprimand of the JSC is *res judicata* in that it disciplined Tillett for the conduct alleged in the Complaint as being prejudicial to the administration of justice.

(Estoppel)

The JSC Order estops the State Bar from prosecuting Tillett for the same conduct for which he has already been disciplined by the JSC.

(Judicial Duties)

Tillett's duties and responsibilities as a judge include the supervision of attorneys who practice before him. His administrative responsibilities as the senior resident judge encompass the effective use of judicial and court resources.

The acts for which the State Bar proposes to discipline Tillett were committed in the discharge of his official duties as a superior court judge, not as a lawyer, and therefore Tillett is not subject to discipline by the State Bar for such acts.

The court is charged with concurrent jurisdiction with the State Bar to discipline attorneys.

The provisions of Canon 3 of the Code of Judicial Conduct specifically require that "a judge should take or initiate appropriate disciplinary measures against a judge or a lawyer for unprofessional conduct of which the judge becomes aware. Subpart 3 also provides that a judge should require court officials subject to the direction and control of the court to observe the standards of fidelity and diligence that apply to the judge" and that a judge should facilitate the performance of the administrative responsibilities of other judges and court officials. Subpart 1 Canon 3B.

(Insufficiency of Evidence)

The allegations in the Complaint are not supported by clear, cogent, and convincing evidence. The absence of such evidence to support the allegations of misconduct in the Complaint is known to the State Bar.

Tillett did not procure the unfavorable media scrutiny which his non-public conduct received. What the media reports assert and characterize as misconduct does not prove such conduct and such reports are not clear and convincing evidence thereof.

(Denial of Due Process)

The passage of time, loss of evidence, death of an essential witness, Tillett's acceptance of a Public Reprimand from the JSC, and unreasonable delay by the State Bar have, *inter alia*, denied to Tillett fundamental fairness and due process.

The purported exercise of jurisdiction by the State Bar exceeds the authority delegated to it by the General Assembly, contravenes the North Carolina and United States Constitutions, and thereby denies to Tillett due process of law.

Prior to receipt of the Notice of Grievance from the State Bar on March 24, 2014, Tillett acted on the assumption that all the issues involving the Town of Kill Devil Hills ("Town" or "KDH") and the District Attorney's Office ("DA's Office") had been completely resolved with the Judicial Standards Commission.

Following the Public Reprimand by the JSC, many documents related to the allegations in the Complaint have been discarded. All the related files in Tillett's office were destroyed. Tillett agreed to a Public Reprimand in order to completely resolve all outstanding issues and concerns. Tillett's objective in doing so was to avoid further distraction from performance of Tillett's judicial duties, end the interruption of Tillett's life, and limit further public focus on our court system.

The allegations in the Complaint involve the same conduct previously addressed by the JSC. Tillett has already been disciplined by the JSC for the very same conduct alleged in the Complaint.

"The purpose of professional discipline for misconduct is not punishment, but to protect the public, the courts and the legal profession." N.C.R.P.C. Rule 8.4, Comment [3]. Tillett has already been disciplined by the JSC for the same acts by him as a judge which gives rise to the allegations made by the State Bar against Tillett as a lawyer. N.C. Gen. Stat. § 7A-374.1, states

that “the procedure for discipline of any judge or justice of the General Court of Justice shall be in accordance with this Article.” The discipline imposed by the JSC—a public reprimand—has already served “to protect the public, the courts and the legal profession.”

The conduct for which Tillett was disciplined by the JSC does not reflect adversely on Tillett’s “honesty, trustworthiness, or fitness as a LAWYER.” Assuming *arguendo* that the conduct which is the basis for the Complaint against Tillett “is prejudicial to the administration of justice”, he has already been publicly reprimanded for such conduct.

If Tillett had engaged in the alleged conduct as an attorney, such conduct would not be sanctionable.

The JSC is the body created by law to discipline judges. The JSC imposed a “public reprimand” for MINOR misconduct. A much more severe form of discipline would have been imposed had Tillett’s conduct been found by the JSC to be other than minor.

(Denial of Equal Protection)

Tillett is informed and believes that he is the only sitting judge which the State Bar has sought to discipline for judicial misconduct. Any such discipline imposed by the State Bar contravenes Article IV, Section 17 and Article I, Section 19 of the North Carolina Constitution, and denies to Tillett equal protection of the law, and the protection of the law of the land, under the said constitutional provisions.

(Separation of Powers)

The process employed by the State Bar to discipline a duly elected superior court judge for alleged misconduct as a judge violates Article I Section 6 of the North Carolina Constitution in that the officials of the State Bar, the members of the Bar Grievance Committee, the members of the Disciplinary Hearing Commission, and the members of the hearing panel are purporting to

exercise jurisdiction reserved exclusively to the judicial branch of government. The State Bar is a creature of the legislative branch of government, and purports to lawfully perform administrative duties.

(No Independent Tribunal)

The DHC is not an independent, unbiased tribunal. The process by which the hearing panel was selected failed to assure that the allegations against Tillett will be fairly and objectively considered in that an interested or interested parties were involved in the selection of its members. The Chairman of the DHC is the attorney for an interested party. Tillett is informed and believes that members of the DHC and the panel were appointed by the current Chairman of the DHC.

ANSWER

Responding to the specific allegations of the Complaint:

1. The Motion to Dismiss is incorporated by reference in response to the allegations of Paragraph 1 of the Complaint.
2. The Motion to Dismiss is incorporated by reference in response to the allegations of Paragraph 2 of the Complaint.
3. The allegations of Paragraph 3 of the Complaint are admitted.
4. The allegations of Paragraph 4 of the Complaint are admitted.
5. The allegations of Paragraph 5 of the Complaint are admitted.
6. The allegations of Paragraph 6 of the Complaint are admitted.
7. The allegations of Paragraph 7 of the Complaint are admitted.
8. The allegations of Paragraph 8 of the Complaint are admitted.

9. It is admitted that a phone conversation occurred. The allegations contained in Paragraph 9 of the Complaint as to the topic discussed during the phone conversation are denied. Except as expressly herein admitted, the allegations contained in Paragraph 9 of the Complaint are denied.

10. Tillett is informed and believes that a meeting occurred but has no knowledge as to what was said at the meeting. Except as expressly herein admitted, the allegations contained in Paragraph 10 of the Complaint are denied.

11. It is admitted that a meeting occurred. It is denied that Tillett requested the meeting. See FURTHER ANSWER AND DEFENSES—April 15, 2010 Meeting with KDH Officials which is incorporated by reference. Except as expressly herein admitted, the allegations contained in Paragraph 11 of the Complaint are denied

12. It is admitted that the topics recited in the allegations of Paragraph 12 of the Complaint, and others, were discussed. It is denied that Tillett expressed anger over the incident involving his adult son. See FURTHER ANSWER AND DEFENSES - April 15 Meeting with KDH officials which is incorporated by reference. Except as expressly herein admitted, the allegations contained in Paragraph 12 of the Complaint are denied.

13. It is admitted that Tillett was offered an opportunity to view a video. Except as expressly herein admitted, the allegations contained in Paragraph 13 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES - April 15 Meeting with KDH officials which is incorporated by reference.

14. The allegations of Paragraph 14 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES - April 15 Meeting with KDH officials which is incorporated by reference.

15. Answering Paragraph 15 of the Complaint, the response to Paragraph 14 of the Complaint is incorporated by reference.

16. Answering Paragraph 16 of the Complaint, the response to Paragraph 14 of the Complaint is incorporated by reference.

17. Answering Paragraph 17 of the Complaint, the response to Paragraph 14 of the Complaint is incorporated by reference.

18. Answering Paragraph 18 of the Complaint, the response to Paragraph 14 of the Complaint is incorporated by reference.

19. Answering Paragraph 19 of the Complaint, the response to Paragraph 14 of the Complaint is incorporated by reference.

20. Answering Paragraph 20 of the Complaint, the response to Paragraph 14 of the Complaint is incorporated by reference.

21. Answering Paragraph 21 of the Complaint, the response to Paragraph 14 of the Complaint is incorporated by reference.

22. Answering Paragraph 22 of the Complaint, the response to Paragraph 14 of the Complaint is incorporated by reference.

23. Answering Paragraph 23 of the Complaint, the response to Paragraph 14 of the Complaint is incorporated by reference.

24. Answering Paragraph 24 of the Complaint, the response to Paragraph 14 of the Complaint is incorporated by reference.

25. Answering Paragraph 25 of the Complaint, the response to Paragraph 14 of the Complaint is incorporated by reference.

26. The allegations of Paragraph 26 of the Complaint are denied.

27. The allegations of Paragraph 27 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – Complaints/Petition for Removal of Chief Britt which is incorporated by reference.

28. The allegations of Paragraph 28 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – Complaints/Petition for Removal of Chief Britt which is incorporated by reference.

29. The allegations of Paragraph 29 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – Complaints/Petition for Removal of Chief Britt which is incorporated by reference.

30. The allegations of Paragraph 30 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – Complaints/Petition for Removal of Chief Britt which is incorporated by reference.

31. The allegations of Paragraph 31 of the Complaint are admitted. See FURTHER ANSWER AND DEFENSES – Complaints/Petition for Removal of Chief Britt which is incorporated by reference.

32. N.C. Gen. Stat. §128-17 speaks for itself and is the best evidence of its provisions. However, to the extent a response may be required, the allegations of Paragraph 32 of the Complaint are denied.

33. The allegations of Paragraph 33 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – Complaints/Petition for Removal of Chief Britt which is incorporated by reference.

34. The allegations of Paragraph 34 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – Complaints/Petition for Removal of Chief Britt which is incorporated by reference.

35. The allegations of Paragraph 35 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – Complaints/Petition for Removal of Chief Britt which is incorporated by reference.

36. The allegations of Paragraph 36 of the Complaint are admitted. See FURTHER ANSWER AND DEFENSES – Complaints/Petition for Removal of Chief Britt which is incorporated by reference.

37. The allegations of Paragraph 37 of the Complaint are admitted. See FURTHER ANSWER AND DEFENSES – Complaints/Petition for Removal of Chief Britt which is incorporated by reference.

38. The allegations of Paragraph 38 of the Complaint are admitted. See FURTHER ANSWER AND DEFENSES – Complaints/Petition for Removal of Chief Britt which is incorporated by reference.

39. The allegations of Paragraph 39 of the Complaint are admitted. See FURTHER ANSWER AND DEFENSES – Complaints/Petition for Removal of Chief Britt which is incorporated by reference.

40. The allegations of Paragraph 40 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – September 19, 2011 Order which is incorporated by reference.

41. The allegations of Paragraph 41 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – September 19, 2011 Order which is incorporated by reference.

42. The allegations of Paragraph 42 of the Complaint are admitted. See FURTHER ANSWER AND DEFENSES –Petition for Removal of Chief Britt/September 19, 2011 which is incorporated by reference.

43. The order speaks for itself and is the best evidence thereof. However, to the extent a response may be required, the allegations of Paragraph 43 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – September 19, 2011 Order which is incorporated by reference.

44. The response to Paragraph 43 of the Complaint is incorporated by reference.

45. Tillett is without sufficient information necessary to admit the allegations contained in Paragraph 45 of the Complaint, and therefore denies these allegations.

46. The allegations of Paragraph 46 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – September 19, 2011 Order which is incorporated by reference.

47. The allegations of Paragraph 47 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – September 19, 2011 Order which is incorporated by reference.

48. The allegations of Paragraph 48 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – September 19, 2011 Order which is incorporated by reference.

49. The allegations of Paragraph 49 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – September 19, 2011 Order which is incorporated by reference.

50. The allegations of Paragraph 50 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – September 19, 2011 Order which is incorporated by reference.

51. The allegations of Paragraph 51 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – September 19, 2011 Order which is incorporated by reference.

52. The allegations of Paragraph 52 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – September 19, 2011 Order which is incorporated by reference.

53. The allegations of Paragraph 53 of the Complaint are admitted. See FURTHER ANSWER AND DEFENSES – September 19, 2011 Order which is incorporated by reference.

54. Tillett is without sufficient information necessary to admit the allegations contained in Paragraph 54 of the Complaint, and therefore denies these allegations.

55. The allegations of Paragraph 55 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – September 19, 2011 Order which is incorporated by reference.

56. The allegations of Paragraph 56 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – September 19, 2011 Order which is incorporated by reference.

57. The allegations of Paragraph 57 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – September 19, 2011 Order which is incorporated by reference.

58. The allegations of Paragraph 58 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – September 19, 2011 Order which is incorporated by reference.

59. Tillett is without sufficient information necessary to admit the allegations contained in Paragraph 59 of the Complaint, and therefore denies these allegations.

60. The response to Paragraph 59 of the Complaint is incorporated by reference.

61. The response to Paragraph 60 of the Complaint is incorporated by reference.

62. The response to Paragraph 61 of the Complaint is incorporated by reference.

63. The allegations of Paragraph 63 of the Complaint are admitted.

64. The allegations of Paragraph 64 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

65. The letter to Judge Fitch speaks for itself and is the best evidence of its contents. However, to the extent a response may be required, the allegations of Paragraph 65 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

66. The response to Paragraph 65 of the Complaint is incorporated by reference.

67. The response to Paragraph 61 of the Complaint is incorporated by reference.

68. The allegations of Paragraph 68 of the Complaint are admitted. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

69. Admitted that Tillett met with Parrish and ADA Lamb on or about January 5, 2012. Denied that Tillett arranged for a deputy to be stationed outside his office door. Except as admitted, the allegations contained in Paragraph 69 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

70. The allegations of Paragraph 70 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

71. The allegations of Paragraph 71 of the Complaint are denied. See Further Answer and Defenses below for a substantive response to the allegations of paragraph 71.

72. The allegations of Paragraph 72 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

73. The allegations of Paragraph 73 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

74. The allegations of Paragraph 74 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

75. The allegations of Paragraph 75 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

76. The letter to Murphy speaks for itself and is the best evidence of its contents. However, to the extent a response may be required, the allegations of Paragraph 76 of the Complaint are denied.

77. The allegations of Paragraph 77 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

78. The allegations of Paragraph 78 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

79. The allegations of Paragraph 79 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

80. The allegations of Paragraph 80 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

81. The response to Paragraph 61 of the Complaint is incorporated by reference.

82. The allegations of Paragraph 82 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

83. The allegations of Paragraph 83 of the Complaint are admitted. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

84. The allegations of Paragraph 84 of the Complaint are admitted. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

85. The allegations of Paragraph 85 of the Complaint are admitted. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

86. The allegations of Paragraph 86 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES – which is incorporated by reference.

87. The allegations of Paragraph 87 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES -- which is incorporated by reference.

88. The response to Paragraph 61 of the Complaint is incorporated by reference.

89. The allegations of Paragraph 89 of the Complaint are denied. See FURTHER ANSWER AND DEFENSES -- which is incorporated by reference.

90. The allegations of Paragraph 90 of the Complaint are admitted. See FURTHER ANSWER AND DEFENSES -- which is incorporated by reference.

91. The Court of Appeals opinion speaks for itself. It is expressly denied that the Court of Appeals reversed the October 16, 2012 order. Except as expressly admitted herein. The allegations of Paragraph 91 are denied. See FURTHER ANSWER AND DEFENSES -- which is incorporated by reference.

FOR A FURTHER ANSWER AND DEFENSES, Tillett says:

Tillett's Adult Son

There was no connection between complaints made against KDH police officers and an incident which occurred on April 4, 2010 involving Tillett's adult son. The multiple complaints against Chief Britt were made by KDH police officers more than a year later.

April 15, 2010 Meeting with KDH Officials

The KDH Town Attorney requested and arranged a meeting to address a broad range of concerns involving the KDHPD. Tillett did not state to the KDH Town Attorney that this was to be a "venting session."

During the meeting many complaints against the KDHPD were discussed. Tillett did not raise the issue of his son's actions or treatment. The police officers did. Judge Tillett commented on other incidents where citizens were complaining about the misconduct of KDHPD officers.

Specifically identified by Tillett were two police officers who had been found by other judges to have altered evidence. Chief Britt then refused to discuss specific personnel issues.

A dialogue then took place about the KDH drug dog being prone to false positives and not being certified by an independent agency, cases involving a stabbing at a restaurant, a witness who had lied, and a Jamaican rapper charged with rape whose case had to be continued because of the failure of the KDHPD to respond to discovery.

Discussions followed about methods of search and seizure employed by the KDHPD. Chief Britt interjected that he determined the law that was to be applied by his officers. He asserted that he followed the decisions of the United States Supreme Court. Tillett suggested to Chief Britt that a police officer was required to follow the decisions of all courts.

Chief Britt responded angrily that he would not be intimidated by Tillett.

Mayor Sturza requested that he be given 90 days to determine what corrective action was to be taken. All agreed.

The issue of removal of officers arose for the first time in the meeting in reference to the KDHPD officer who was determined by other judges to have lied under oath and altered documents. The Chief District Court Judge had a standing order precluding the KDHPD officer from testifying in his court. Officer Dana Harris suggested that they had done all they could to terminate the officer. Tillett responded that the court could assist in the removal of officers who lied under oath or altered documents. The other reference to removal was made after Chief Britt's angry and defiant remarks to Tillett. The KDH Town Attorney, not Tillett, made the statement that superior court judges had removed officers.

Complaints

The protocol observed by Tillett regarding complaints against magistrates, clerks, police officers, and the DA's office, was that no such complaints could be anonymous. His office did not become involved with personnel issues that were unrelated to malfeasance or professional misconduct.

Tillett did not instruct any complainants on the "correct" way to make complaints.

A letter was sent to Murphy notifying him that a complaint alleging misconduct by him had been received by Tillett's office. This was consistent with the protocol observed by Tillett's office when such complaints were received. The letter to Mr. Murphy had nothing to do with a memo provided by the KDH Town Attorney.

The letter dated June 24, 2011 to Chief Britt was similar to other letters sent by Tillett to officials who were the subject of complaints received by him.

Petition for Removal of Chief Britt

Tillett did not repeatedly pressure the DA to file a petition for removal of Chief Britt. Tillett contacted the DA only on those occasions when someone else contacted him requesting information about the complaints received by Tillett's office.

Tillett did not tell DA Parrish that "the Chief will resign or else".

Tillett's only conversation with reference to the DA's drafting of a petition occurred in a telephone conference on October 26, 2011 with the DA and the KDH Town Attorney. The KDH Town attorney had contacted Mr. Parrish to determine if a copy of the petition that Parrish had drafted and shared with the KDH Town Attorney should be provided to the attorney representing the KDH Police Chief.

The allegations in the draft petition were made by DA Parrish himself. Parrish was not required to prepare a petition. All he had to do was concur with the filing of the petition by five